

of correcting a bunion condition in a foot. The claim calls for the step of attaching one electrode to the foot for applying an electrical signal to the abductor hallucis muscle to counter balance the strength of the adductor hallucis muscle. Hurtado and Axelgaard, individually or in combination are foreign to this claimed method. Neither reference points one of ordinary skill as to the cause of a bunion condition in the foot or how to correct such a condition.

Hurtado discloses that electro-muscle stimulation is well known. This stimulation applies a stimulation signal to a muscle or group of muscles to strengthen the muscles which are weak due to a variety of conditions such as injuries, illness and so on. In particular a belt is disclosed for wrapping about a patient's body. Col. 3, lines 3 et seq. Also a cuff is disclosed for stimulating muscles in the legs or arms. Col. 3, lines 54 et seq. Two cuffs are disclosed, one with positive electrodes and the other with negative electrodes. Col. 3, lines 58 et seq. An abdominal belt may be provided. Col. 4, lines 48 et seq. The reference specifically refers to the quadriceps, col. 4, line 35, patella, col. 4, line 40, and abdominus rectus, Col. 4, line 52. With respect to the latter, the oblique muscles are stimulated equally. Col. 5, line 67. This patent is foreign to the claimed method.

In addition, neither Hurtado nor Axelgaard disclose or otherwise suggest the cause of a bunion condition. Applicant's information disclosure cites a number of references purportedly dealing with bunion conditions. These merely provide mechanical mechanisms or devices to treat the symptoms and not the cause. Neither of the cited references by the Office Action discuss or disclose the cause of the bunion condition. Further, assuming *arguendo* the cause of the condition is known, there is no suggestion that Hurtado or Axelgaard could resolve this particular problem or how. They are merely an invitation to experiment, which is proscribed. Neither reference suggests a result effective variable to correct a bunion condition. With no such suggestion, they are mere invitations to experiment, which is not a test of obviousness. *In re Antonie*. MPEP2144.05 II B. The case states that a parameter optimized must be a result effective variable. The values of the signals used in the prior art are not the same values that are effective for bunion treatment. Applicant has discovered the particular frequency, amplitude and duration of the pulses, Figs. 10a and 10b, and claim 14, for example, which are result

effective for bunion treatment. The references do not suggest such signals and do not discuss the bunion condition and, therefore, are foreign to treating bunions. A reference that only invites experimentation is not a valid reference. MPEP 2144.05.

It should be understood that all muscles in the body are different. There is no support in the cited references that one set of muscles that may respond to one kind of electrical stimulation imparts a global conclusion that all muscles will respond similarly to the same signals or in fact, to any signals of any values. This is not true and the references do not support such a conclusion. More importantly, the response of various muscle groups to stimulation is unpredictable. It is not known which muscles of the body will respond to stimulation or in fact the kind of stimulation necessary to achieve a desired result. That is, electrical signals useful for one set of muscles do not necessarily work in the same way on other different sets of muscles. There is no support in the cited references that the abdominal muscles, leg, spine or arm muscles or other muscles suggest that the muscles causing the bunion condition are correctable with such stimulation or, if correctable, how to do so with what signals and where to apply the signals. Applying signals to the various muscles of the references does not provide a clue as to which muscles or where to apply the signals and what value signals to apply, to correct bunions. This is an unpredictable field.

Axlegaard is only concerned with the spine. There is no support in this reference that his apparatus would or could work to correct the bunion condition. The Office Action extrapolates unrelated problems and solutions to the claim 12 method. But those solutions to the unrelated problems do not in any way suggest how to solve a bunion condition or even if such solutions can even be employed to correct a bunion condition. Applicant in fact has shown that those disclosed solutions are not the same as what applicant discloses and thus will not in practice solve the bunion condition problem. That is applicant's contribution and not that of the references. Applicant teaches what muscles to stimulate, and what signals to use for such stimulation. The references do not do this. For the reasons given, Claim 12 is believed allowable.

Claims 13-21 are directed to specific solutions directed to bunion correction. The cited references are even more remote to these claims and at best are only an invitation to proscribed experiment. What will work on one set of muscles is no indication that other

muscles will respond similarly. For example, the particular frequencies and pulse widths of claim 14 are not suggested by these cited references of record. These references do not go so far.

Claims 15 and 16 are also not specifically disclosed in the cited references. These dependent claims are believed further allowable for these additional reasons.

Since claims 12-21 have been shown to be in proper form for allowance, such action is respectfully requested.

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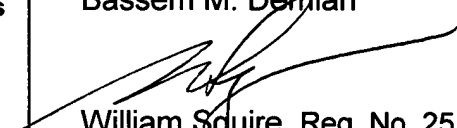
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